

United States Patent No. 5,102,485 to Keeler et al. ("the Keeler patent") in view of the teaching of United States Patent No. 4,605,459 to Voltmer et al. ("the Voltmer '459 patent").

Briefly summarizing, the subject invention is directed to a device for affixing objects to products moving in a row wherein the device has a carrier capable of moving in a radial direction with respect to the axis of rotation for both removing an object from a holder at standstill and affixing the object to a moving product during rotary motion, as specified in amended claim 19. The Voltmer '459 patent, on the other hand, is directed to a literature-applying machine, whereby a head 21, as discussed in col. 3, lines 28-33, is comprised of three outwardly spring biased suction cups 28 and a pair of pressure rolls 29, 29'. The Voltmer '459 patent, as illustrated in Fig. 1, teaches a head 21 in its relaxed position, as illustrated by the head 21 in the two o'clock position in Fig. 1, and the head 21 may not be radially extended with respect to the axis of rotation to receive literature 19 of varying thicknesses either while at standstill or while rotating. Furthermore, when the head 21 extends to the six o'clock position, as illustrated in Fig. 1, the head 21 operates to secure the label 19 about an object. The motion of the head 21 is dictated by the size of the container 20 and not by the thickness of a label 19. Therefore, there is neither a teaching nor a suggestion in the Voltmer '459 patent for radial movement of the carrier with respect to the axis of rotation to accommodate objects of various thicknesses, nor is there a teaching or suggestion of the carrier being movable in a radial direction for both removing an object from the holder at standstill and affixing the object to a moving product during rotary motion.

The Keeler patent, on the other hand, is directed to an apparatus for continuous feeding and synchronized application of fitments to carton blanks by which a rotating drum 56 has multiple transfer stations 60 wherein each station 60 has an air pervious lodgment surface 62 which transfers fitments 20 from a die cut web 22 to carton blanks on a continuous motion conveyor line 24. The drum 56 disclosed in the Keeler patent has a fixed diameter and, as a result, any fitment 20 attached to the carton blank B must have a thickness

suitable to fit between the supply station 28 and the drum 56 and also between the drum 56 and the opposing roller 58. There is no provision in the Keeler patent to accommodate fitments 20 having a range of thicknesses. Furthermore, there is no provision in the Keeler patent for a carrier movable in the radial direction for both removing an object from the holder at standstill and affixing the object to a moving product during rotary motion as specified in Applicant's amended claim 19.

For these reasons, the Applicant believes that amended claim 19 is not obvious from the teaching of the Keeler patent or the Voltmer '459 patent, either alone or in combination with one another and is, therefore, believed to be patentably distinct over these references. Furthermore, dependent claims 20, 21, 23, 25-26, 28-29 and 31-33 depend from what is believed to be patentably distinct independent claim 19 and are, therefore, themselves believed to be patentably distinct.

In Section 7 of the Office Action, the Examiner rejects claims 24 and 37 under 35 U.S.C. §103(a) as being obvious from the teaching of the Keeler patent and the Voltmer '459 patent as applied to claim 19, and further in view of the teaching of European Patent Application No. EP 0 035 645 ("the Utsumi application"). Additionally, in Section 8 of the Office Action the Examiner rejects claim 27 under 35 U.S.C. §103(a) as being obvious from the teaching of the Keeler patent and the Voltmer '459 patent in view of the teaching of Great Britain Patent No. GB 2188608 to Voltmer et al. ("the Voltmer '608 patent"). By reasons of their dependency upon what is believed to be patentably distinct independent claim 19, claims 24, 27 and 37 are also believed to be patentably distinct.

In Section 9 of the Office Action, the Examiner rejects claims 19-21, 23, 25-26, 28-29 and 31-33 under 35 U.S.C. §103(a) as being obvious from the teaching of the Voltmer '459 patent in view of the teaching of the Keeler patent as set forth in paragraph 16 of the previous Office Action. For reasons previously set forth in this Amendment distinguishing the teaching of the Voltmer '459 patent and the Keeler patent from the

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amended claim 19, independent claim 19 is believed to be patentably distinct over these references. Furthermore, claims 20, 21, 23, 25-26, 28-29 and 31-33, based upon dependence upon what is believed to be patentably distinct independent claim 19, are themselves believed to be patentably distinct.

In Section 10 of the Office Action, the Examiner rejects claims 24 and 37 under 35 U.S.C. §103(a) as being obvious from the teaching of the Voltmer '459 patent and the Keeler patent as applied to claim 19 above, and further in view of the Utsumi application. In Section 11 of the Office Action, the Examiner further rejects claim 27 under 35 U.S.C. §103(a) as being obvious from the teaching of the Voltmer '459 patent and the Keeler patent in view of the teaching of the Voltmer '608 patent. Claims 24, 27 and 37, by way of their dependence upon what is believed to be patentably distinct independent claim 19, are themselves believed to be patentably distinct.

In Section 13 of the Office Action, the Examiner indicates that while there is no provision in the Keeler patent to accommodate fitments 20 having a range of thicknesses, this is not believed to be commensurate with the scope of the claimed invention. The Applicant was presenting this distinction to highlight advantages of a system having a carrier that is movable in a radial direction with respect to the axis of rotation. Inasmuch as this is a distinct advantage of such a system and not a structural element, the Applicant does not believe it is necessary to include such a feature as a claimed element.

In Section 14 of the Office Action, the Examiner appears to take issue with the Applicant's statement that the Keeler patent does not teach or suggest a carrier that is movable in a radial direction with respect to the axis of rotation. While the Examiner agrees with this argument, she invites the Applicant to re-read the §103 rejection set forth in paragraph 6 of the present Office Action with respect to claim 19. The Applicant has already refuted this argument and, therefore, believes that claim 19 is patentably distinct.

In Section 15 of the Office Action, the Examiner indicates that the Applicant argues that the carrier of Voltmer '459 patent cannot accommodate objects of varying thicknesses/size and that this argument is not commensurate with the scope of the claimed invention. This statement appears to be similar to the statement of Section 13 in the present Office Action and, therefore, the response to Section 13 also applies to this section.

In Section 16 of the Office Action, the Examiner indicates that claim 19 does not include any features about the carrier being radially extended when it receives the objects. Claim 19 has been amended to include such features.

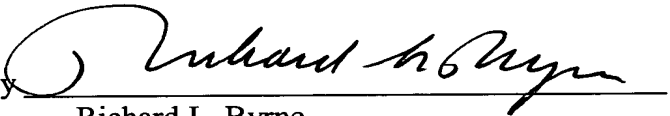
Reconsideration of the rejections and objections and allowance of pending claims 19-21, 23-29, 31-33 and 37 are respectfully requested.

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MARKED-UP VERSION OF CHANGES MADE

IN THE CLAIMS:

Claim 19 has been amended as follows:

19. (Twice Amended) A device for affixing objects to products moving in a row, the device comprising a holder for a stock of the objects and affixing means comprising a carrier for removing one of the objects from the holder and moving the object, wherein the affixing means is capable of rotary movement about an axis of rotation and affixing the object to a moving product during the rotary movement of the affixing means,

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wherein the affixing means is capable of being driven intermittently between rotation and standstill, and wherein during [the] standstill of the affixing means the carrier can remove the object from the holder and wherein the carrier is movable in a radial direction with respect to the axis of rotation for both removing an object from the holder at standstill and affixing the object to a moving product during rotary motion.

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